

**TOWN OF NEW BOSTON
NEW BOSTON ZONING BOARD OF ADJUSTMENT
Minutes of 2017
February 21, 2017**

The meeting was called to order at 7:00 p.m. by Zoning Board of Adjustment Chairman David Craig. Present were regular members Ken Clinton, Greg Mattison, Phil Consolini and Doug Martin. Also present was Planning Coordinator Shannon Silver.

Present in the audience for all or part of the meeting were Genevieve and Mario Pelletier, Carol and Jeff Mamczak, Bill Schaaf, Jay and Jen Hood, Rodney Towne, Kevin Ryan, Charlie Peak, Kary Jencks, Noel Sagna, Jim and Cindy St. Jean.

Minutes from the meetings of September 20, November 15 and December 20, 2016 were approved as presented by Doug Martin, 2nd by Phil Consolini. Minutes from the meeting of January 17, 2017 were approved as amended by David Craig, 2nd by Doug Martin.

Application for a SPECIAL EXCEPTION to the terms of Article II, Section 204.4, of the New Boston Zoning Ordinance. The applicants are Mario & Genevieve Pelletier, trustees of the M&G Pelletier Joint Revocable Trust, for the property located on 212 McCollum Road, Tax Map/Lot # 14/105, in the Residential-Agricultural “R-A” District. The applicants are requesting permission to operate a portable woodbine processor sawmill.

The Chairman noted parties are here. He noted he had a potential conflict as he has done legal work with the Pelletiers. He also received a letter from an abutter who is also a client and he recognizes some names on the abutter list as people he has had business dealings with. He believes he can be objective in deciding this case on its merits but if anyone has concerns, he can be excluded from sitting on this matter. There were no objections and the hearing proceeded.

The Chairman noted he reviewed the zoning ordinance and permitted uses in the R-A district and some forestry related items and found some definition issues. Genevieve Pelletier introduced herself and Mario Pelletier saying they live at 212 McCollum Road, they are loggers and have a home business. There is a lot of heavy equipment around their home. Their property is 29 acres. They have a portable woodbine processor sawmill on McCurdy Road and are here for a Special Exception to get it approved. The machine cuts firewood. They have been in business since 1997. They purchased this machine 1.5 years ago to make work easier, compared to using a log splitter. They heat their home with wood, using 50 cords per year. It is a large machine. There are a lot of logs on their log landing. Mario said local mills are not accepting hardwood pulp and this leaves a lot of logs on their property. They met with the Town Administrator and Code Enforcement Officer in December 2016 who recommended they come to the ZBA for a variance to come into compliance. The Code Enforcement Officer’s letter of November 3, 2016 and December 20, 2016 were read aloud. The applicants showed the Board a photo of the machine. It is a portable sawmill on a trailer.

The Chairman noted after review of the ordinance that Forestry is a permitted use, sawmill is a Special Exception. The definition of sawmill was reviewed in the March 11, 2016 ordinance. The applicant is requesting a Special Exception.

The Planning Coordinator noted this doesn’t meet the criteria for a home business.

The Chairman said the Code Enforcement Officer made the decision this is a cordwood business outside the scope of permitted use in the ordinance. The Pelletiers agree the portable sawmill fits the definition of sawmill as it is set out in the ordinance. This would qualify it for a Special Exception in the R-A district. He is not sure if the definition is broad enough to cover a cordwood operation. The Code Enforcement Officer will determine this if a separate Variance is needed. Cordwood and sawmill typically go together but this is a portable sawmill, so “structure” mentioned in the ordinance is not needed, the definition matches and is appropriate under the definition. If the Board grants Special Exception it would cover the cordwood operation as well and eliminate any deficiencies as identified by the Code Enforcement Officer. There are log storage and production issues. The Board agrees if a Special Exception is granted it would cover log storage as well.

The Planning Coordinator noted home businesses do not allow exterior storage so this would be an issue if they were applying for a home business, not a Special Exception for a sawmill.

The Board reviewed the sketch showing distances off setbacks and the location of the logyard. The sawmill is 300’ from the closest property line. Storage at the log landing is 52’ from the road, more than 50’ from the front yard. The Special Exception will cover it, portable sawmill meets the definition and the applicant is in compliance because it is not close to the property lines.

The applicants said they cut 110 cords of wood last year and 10 cords this year. This year is a slow cordwood year so far. Their hours of operation are planned to be 7:00 am to 5:00 pm Monday through Saturday. They explained the sawmill machine cuts the wood, a tractor moves the wood to the sawmill. Logs are trucked in to their location. The sawmill puts the cut wood into a truck. They do not have any employees, there is no lighting needed and they have a small sign on a tree.

The Board asked about road/traffic impacts when business is busier to help them consider limitations such as loads per day. Mr. Pelletier estimated two tractor trailer loads per week that would bring in wood he would cut as the need arises. He suggested limiting to three loads per day. A tractor trailer carries approximately 9-10 cords.

The Board asked about the clearing portion of the business. Logs in the storage area are coming in from the applicants clearing/logging jobs. Business is slow right now, there is no market for low grade logs and pulp so he is bringing it to his property for storage.

The Board asked directly noticed abutters to speak.

Marilyn Taylor sent a letter by e-mail. She owns a property on South Hill Road. She had concerns that the approval may impact abutters and residents of South Hill Road. She had many questions and concerns about traffic, noise, and hours of operation. She asked if this is for personal or commercial use. She asked about the specific location of the machine on site and if there were any additional supplies. No opinion or express objections are noted in the letter. A copy was given to the applicants and it was submitted for the record.

The Board considers it some of both personal and commercial use. The ordinance encourages rural agricultural uses. Forestry and agriculture are permitted uses. The applicants say this is a sawmill.

Carol and Jeff Mamczak, owners of t/m 14-96, a lot in current use, were present. They are concerned that this is a commercial operation with three cease and desist orders and they don’t see any good faith that if granted the sawmill would be moved further from the Mamczak property line or operated in the manner being discussed. The Mamczaks took pictures along the lot line and of the sawmill after getting the abutter notice and thought it seems too close to the lot

line. The Mamczaks are also concerned about traffic such as large trucks damaging the road when business is busier. The Mamczaks want to build a home on their land someday and don't want to be across from a commercial operation.

Charlie Peak representing the Townes Family Trust was present and had no issues at this time. Kevin Ryan was present and said he is a neighbor of the applicant. He has purchased wood from them and been on their property. He believes there is flexibility as it is a portable machine that can be placed within the area specified by the Board as there is plenty of area available at the property. He considers it low impact, has less impact than a gravel load dropped in the yard, the machine is quieter than a chainsaw, this is not a large commercial business, it is a small operation.

Jay and Jen Hood were present and said they are friends and clients of the applicants. They asked for clarification of when cutting wood becomes a "production" such as when using a chainsaw or putting it on a conveyor belt. He said the applicants have been cutting and storing wood on the property for decades but now that a new machine is installed it has become a commercial operation. He asked if everyone that sells wood in New Boston has a Special Exception from the ZBA. He thinks the applicants' business is not a large commercial operation compared to other firewood businesses and the procedure they have been put through is substantial compared to the volume of their business. He said the applicants are reasonable people with considerate hours of operation, running a family business, processing wood that can't even be sent to the mill to support their family.

Rodney Towne of 169 McCollum Road noted he lives at one of the closest properties to the business, they have been running the business for almost two years at their property and it became quieter when they got the new machine compared to a chainsaw. He said they use a lot of cordwood to heat the buildings on their property. He said large trucks make large deliveries to the applicants but they do not occur everyday. He said Mr. Pelletier cuts the wood with the machine and puts it into his truck to deliver the load. The machine doesn't run continuously. He said this is a small family business that is not planning to hire a lot of employees, Rodney agrees with that, he has not seen anyone cutting with the machine when Mr. Pelletier is out delivering. Rodney would like to see Mr. Pelletier delivering more loads per day because that would mean the family is prospering and doing well. He said the noise is no more than what a leaf blower or lawn mower would make. Rodney hears dogs in the area more than he hears this machine. He said the Planning Board will set the rules, the applicants are good neighbors, this is a commercial business as it should be and the applicants have proven themselves to be courteous and responsible in their operation.

Mrs. Pelletier showed where houses and building lots are located in the neighborhood. Mr. Pelletier noted he would like to get ten truck deliveries per week which is feasible but not currently occurring and the operation is not large enough to process that amount. He said the machine can do five cords per hour but there is not demand for that. He said one delivery per day is a lot right now. He is out logging during the week. Firewood deliveries are scheduled toward the end of the week, Thursday, Friday and Saturday but he would accept deliveries all week long if he could. He is not delivering firewood everyday all day and that is not expected to occur because he mainly earns money through logging.

Bill Schaaf of 111 South Hill Road was present and said he supports the Pelletiers and has concerns. He is concerned about quality of life in the area as the business grows. He would like to know the limits and grounds of Special Exceptions and any recourse if the business is not acceptable. He doesn't want to hear the machine continuously, doesn't want large trucks traveling the road continuously or the road to be damaged but wants to support the Pelletiers.

The Chairman noted the ordinance speaks to that (read aloud) and the Board has the ability to put limits on the business and the Planning Board has to do a site plan review. The ZBA may consider this case limiting the scope or duration of the Special Exception to see if there are problems that need adjustment.

Mr. Pelletier noted he is a logger who got into the cordwood business to get rid of the pulp. He processes approximately fifty cords per year to use in his home furnace. The hours of machine operation would be 7:00 AM to 4:30 Pm Monday through Saturday. His cordwood delivery truck is a 4700 International dump truck.

Ken Clinton said the sketch plan provided may not include all elements required per the guidelines. The current location of the log landing is not in compliance with the requirements for the Special Exception. He requested the log landing be moved to an appropriate location on the property that meets the requirements and is less impacting on the abutters. He recommended the applicants review pages 45 and 46 of the ordinance and respond to each item on that list with a reasonable plan showing placement of the machine, log landing and storage area. Mr. Clinton is not ready to vote on this item.

Ken Clinton **MOVED** to continue the hearing for Mario & Genevieve Pelletier, trustees of the M&G Pelletier Joint Revocable Trust, for the property located on 212 McCollum Road, Tax Map/Lot # 14/105, in the Residential-Agricultural "R-A" District pending more information from the applicant. Doug Martin seconded the motion and it **PASSED** unanimously.

The Board continued this hearing to allow the applicant to get more information and prepare a proper plan. The ZBA will then rule on the proposal. The hearing was continued to the next ZBA meeting March 21, 2017. The abutters are already on notice.

Application for a SPECIAL EXCEPTION to the terms of Article II, Section 204.4, of the New Boston Zoning Ordinance. The applicant is Kary Jencks, for the property located on Scobie Road, Tax Map/Lot #4/1, in the Residential-Agricultural "R-A" District, owned by Kary Jencks and F. Noël Sagna. The applicant is requesting permission to operate a kennel out of an existing barn on the property.

The Chairman noted this is continued from the January 17, 2017 meeting.

The applicants showed a map and photos of the kennel area. The hours of operation for dog pickup and drop off are planned from 7:00 AM to 5:00 PM Monday through Saturday with no pickup or drop off on Sunday. There will be a limit of 20 dogs kenneled at the same time. There is an existing exterior sensor light. Dogs will be kept inside at night, no dogs will be left outside without supervision. If more than one dog is outside at the same time a person will be with them. If one dog is outside a person will be home but may be in the house or barn. There was previously a sign on a tree and the applicants are considering replacing it with a simple carved wood sign. Dogs will mainly be at the business for overnights, some doggie daycare with same day pickup and drop off is also expected. Appointments will be necessary, the applicants may also pickup and drop off dogs at their homes if requested. Jim and Cindy St. Jean from Francestown were present to follow up on the January 17 discussion. They have no issues with the plan at this time. They would appreciate a cap on the business so it doesn't grow too large. A fence with screening on it is important to the St. Jeans. The Board noted the road gets muddy

and is unpaved in front of the property, more frequent road maintenance may be needed to make sure the road doesn't deteriorate.

Ms. Jencks noted less than ten additional vehicles are expected to travel the road per day for the business.

The Chairman noted a stockade fence along the street is suggested as opposed to the plywood fence proposed. Jim St. Jean asked about waste disposal, the Planning Board is expected to address this.

Doug Martin **MOVED** to grant the Special Exception for a kennel on site Tax Map/Lot #4/1, Scobie Road, Residential-Agricultural "R-A" District subject to the guidelines discussed: no more than twenty dogs on site at any time, hours of operation 7:00 AM to 5:00 PM Monday through Saturday, no pickup or drop off on Sunday, if more than one dog is outside they are always supervised, stockade style wood fence aesthetically pleasing and functional to reasonably contain all dogs and offer shielding from the road, a fully screened fence with no holes or openings, not chainlink, keep an eye on the road to see if traffic is causing it to deteriorate. Ken Clinton seconded the motion and it **PASSED** unanimously.

Other Business

While researching the previous application the Planning Coordinator reviewed other kennels the ZBA granted in town. One was Canine Commitment in 2011 that was granted for one year, and allowed a maximum of two dogs. This is now a large group that never reapplied as required or did a site plan. The Chairman recalled the one year limitation was to check in with the ZBA. Canine Commitment did come back a year later but are now in violation.

The Planning Coordinator suggested adding to conditions for Special Excepting a directive that the applicant must meet with the Planning Board within a certain amount of time. The Chairman said that is sometimes added. He noted that as decisions are issued and if they are limited by time, the Code Enforcement Officer should have a calendaring system to remind him of monthly renewals. The Planning Coordinator will let the Code Enforcement Officer know she found this violation by Canine Commitment.

The plan submitted by Canine Commitment was also incomplete. The Planning Coordinator noted she is willing to help applicants with plans but requested clarification of ZBA expectations. A member noted they would like to limit expense to applicants who are unsure if their application will be granted and that is why the boards sometimes consider non-professional drawings that include the required elements. The Board will consider this type of plan on a case by case basis.

The chairman **MOVED** to adjourn at 8:47 p.m. Ken Clinton seconded the motion and it **PASSED** unanimously.

Respectfully submitted,
Maralyn Segien, Selectmen's Assistant/Recording Clerk

Minutes Approved:
06/20/2017